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212072

September 23, 2004

Mr. Vernon A. Williams
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423-0001
(202) 565-1718

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Office of Proceedings

SEP 24 2004

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Re: Finance Docket No. 34536

Dear Secretary Williams:

Please find enclosed the original and ten copies of United Transportation Union's Amended Petition to Revoke Exemption to be filed in the above-captioned matter. In accordance with Board requirements, we have also enclosed a disk in WordPerfect format.

Thank you for your cooperation.

Sincerely,

Daniel R. Elliott, III
Associate General Counsel

cc: C. J. Miller, III, General Counsel

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 34536

INDIANA & OHIO CENTRAL RAILROAD, INC
- ACQUISITION AND OPERATION EXEMPTION -
CSX TRANSPORTATION, INC.

UNITED TRANSPORTATION UNION'S
AMENDED PETITION TO REVOKE EXEMPTION



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United Transportation Union (“UTU”) respectfully submits its Amended Petition to Revoke the exemption since application of Sections 10902 and 11323-5 are necessary to carry out the transportation policy of § 10101. *See* 49 U.S.C. § 10502.

UTU’s petition is based upon the fact that the Indiana & Ohio Central Railroad, Inc. (“IOC”) is seeking an automatic exemption to acquire and operate about 107 miles of railroad from CSX Transportation, Inc. (“CSXT”). This line runs from Cincinnati to Columbus, Ohio. It is mainline and is a part of CSXT’s program to rid itself of over 3,500 miles of track through multiple transactions. CSXT appears to be engaging in these small transactions in order to bypass review by the Board of the transaction under 49 U.S.C. §§ 11323 and 11324. As shown below, this matter involves a transaction or transactions having regional or national transportation significance.

In addition to the continuing exemptions that the agency can expect from CSXT in the coming months, there is currently before it a similar notice in Finance Docket No. 34540, *Columbus Ohio River Railroad – Acquisition Exemption – Lines of CSXT between Columbus and Cambridge, Ohio*, a line between Newark and Mt. Vernon, Ohio, a distance of approximately 114 miles of CSXT’s main lines in central Ohio. This constitutes a huge abandonment by a Class I carrier of most of its operations in this well populated sector of Ohio.

In both cases, CSXT is merely leasing the right-of-way to IOC and to Columbus Ohio River. From the simple, sparse filings required by the Class Exemption regulations, it is impossible to ascertain if they are arm’s length transactions which carry out Rail Transportation Policy set forth at 49 U.S.C. § 10101, particularly subparagraph (11) concerning employee wages and safety and suitable working conditions. As provided in 49 U.S.C. § 10902, the STB must ensure that the transaction serves the “public convenience and necessity.” Employee concerns, the shippers’ needs, the transportation system, and maintenance of fair and reasonable rates are all matters that the agency

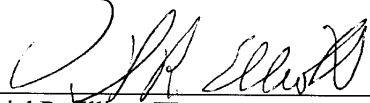
needs to look to in ruling that the “public convenience and necessity” have been met. The enormity of the transaction requires the agency to make an appropriate investigation.

In the instant case, UTU submits that the Notice of Exemption in Finance Docket No. 34536 and the Notice of Intent in Finance Docket No. 34540 be rejected and that the matter raised herein as to whether CSXT and the purchasers have followed the proper procedures in this mass selling of significant main line tracks in central Ohio and destined to be coming on future portions of CSXT, be the subject of an inquiry. Moreover, the situation has such regional or national transportation significance that the Surface Transportation Board should set this subject for hearing to determine whether the parties must follow the procedures set forth in Section 11325(d).

CONCLUSION

Based upon the foregoing reasons and authorities, the United Transportation Union respectfully submits that (1) the Notice of Exemption in this Docket should be rejected; (2) that the matter be declared one of regional importance to be handled under 49 U.S.C. § 11325(d); and (3) the subject be scheduled for briefing and hearing. Pursuant to 49 C.F.R. § 1121.2, UTU is also seeking discovery at the same time as it is filing this Amended Petition. This amendment in no way prejudices the IOCR since the intended consummation date is not until October 16, 2004. UTU is making this amendment because of certain information it learned after it filed the initial petition which it wants to investigate further. UTU may then file a Supplemental Petition depending on the results of this discovery.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "DR Elliott", written over a horizontal line.


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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing United Transportation Union's Petition to Revoke Exemption has been served this 23rd day of September, 2004 via first-class, postage pre-paid mail upon the following:

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